

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ERNEST URTIAGA,

Plaintiff,

vs.

No. 1:12-cv-00663 PJK/WPL

CITY OF BELEN,  
and OFFICER JOSE NATIVIDAD  
in his official and individual capacity,

Defendants.

**ORDER ON DEFENDANTS' MOTION TO  
DISMISS CLAIMS AGAINST CITY OF BELEN AND  
OFFICER NATIVIDAD IN HIS OFFICIAL CAPACITY**

THIS MATTER came before the Court on the Motion of Defendants Officer Jose Natividad ("Officer Natividad") and City of Belen to Dismiss Claims against City of Belen and Officer Natividad in His Official Capacity. Having considered the parties' briefs on the Motion (Docs. 13, 18, and 21), and having granted the Plaintiff fifteen (15) days from this Court's September 13, 2012 Order (Doc. 24) to submit an Amended Complaint curing his defective Complaint or face dismissal of the claims identified in the Motion, this Court FINDS that the Plaintiff has not submitted an amended Complaint within the allotted time, and therefore that Defendant's Motion to Dismiss Claims against City of Belen and Officer Natividad in His Official Capacity is well taken and should be granted.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss Claims against City of Belen and Officer Natividad in His Official Capacity is granted, and that all claims against the City of Belen and Officer Natividad in his Official Capacity are dismissed with prejudice.

IT IS SO ORDERED.

DATED this 17th day of October 2012.

THE HONORABLE PAUL J. KELLY

/s/Paul Kelly, Jr.  
United States Circuit Judge  
Sitting by Designation

Submitted by:

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Jennifer A. Noya  
Jennifer A. Noya  
Andrew B. Indahl  
500 Fourth Street NW, Suite 1000  
P.O. Box 2168  
Albuquerque, NM 87103-2168  
Telephone: 505.848.1800  
Facsimile: 505.848.1899

*Attorneys for Defendants*